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PTO/SB/21 (09-04)

Approved for use through 07/31/2006, OMB 0651-0032

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<b>TRANSMITTAL FORM</b> <i>(to be used for all correspondence after initial filing)</i>		Application Number	10/612,683
		Filing Date	July 1, 2003
		First Named Inventor	*
		Art Unit	*
		Examiner Name	*
Total Number of Pages in This Submission	5	Attorney Docket Number	1000.023 CON

**ENCLOSURES (check all that apply)**

<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input checked="" type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group <i>(Appeal Notice, Brief, Reply Brief)</i> <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) <i>(please identify below):</i> <i>PTO Form-1449, fourteen (14) references, return postcard</i>
<div>Remarks</div>		

**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT**

Firm	CONLEY ROSE, P. C.	
Signature		
Printed name	GREGORY L. MAAG	
Date	July 28, 2006	Reg. No. 32,363

**CERTIFICATE OF TRANSMISSION/MAILING**

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.			
Typed or Printed Name		NANCI D. MOHR	
Signature		Date	July 28, 2006

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P. O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

SERIAL NO.: 10/612,683

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GROUP ART UNIT:

FILED: July 1, 2003

EXAMINER:

FOR: Treatment Of Obesity By  
Bilateral Vagus Nerve Stimulation

**INFORMATION DISCLOSURE STATEMENT**

Cl. Ref. No.: 1000.023 CON

Date: July 27, 2006

Mail Stop Amendment  
Commissioner for Patents  
P. O. Box 1450  
Alexandria, Virginia 22313-1450

Sir:

This Information Disclosure Statement, including completed Form PTO-1449, comprises a list of art of which Applicants are aware.

The submission of this Information Disclosure Statement and the references submitted therewith is not an admission that the art cited is "prior" with respect to the present invention, nor is it a representation, that no better art exists. Applicants hereby reserve the right to swear behind or otherwise disprove any alleged "prior" nature of any art cited should the facts support and the situation warrant such an action. It is submitted that the art cited does not constitute a bar to the patentability of Applicants' invention under 35 U.S.C. § 102 or § 103.

In addition to the art listed on Form PTO-1449, consideration of the following related applications (including prior art cited therein by the Applicants or by the Patent Office) is requested:

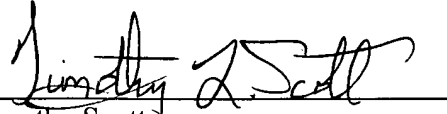
U.S. Application Serial No. 09/753,758, filed January 2, 2001; and

U.S. Application Serial No. 09/346,396, filed July 1, 1999.

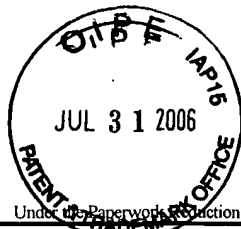
Because an Office Action has been entered in this case, this Information Disclosure Statement is being filed under C.F.R. 1.97(c). Applicant hereby authorizes the Commissioner to charge Deposit Account 50-3053 of Cyberonics, Inc. the amount of \$180 so that this Information

Disclosure Statement may be considered. If any additional fee is required to make this submission timely, the Commissioner is further authorized to charge any fee due to Deposit Account No. 50-3053.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Timothy A. Scott", written over a horizontal line.

Timothy Scott  
Assistant General Counsel  
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PTO/SB/08a 07-05)  
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Substitute for form 1449A/PTO			<b>Complete if Known</b>		
<b>INFORMATION DISCLOSURE STATEMENT BY APPLICANT</b>  (use as many sheets as necessary)			Application Number	10/612,683	
			Filing Date	July 1, 2003	
			First Named Inventor		
			Group Art Unit		
			Examiner Name		
Sheet	1	of	2	Attorney Docket Number	1000.023 CON

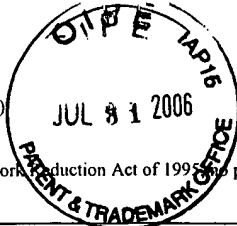
U.S. PATENT DOCUMENTS					
Examiner Initials*	Cite No. <sup>1</sup>	Document Number	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		Number-Kind Code <sup>2</sup> (if known)			
	AA	2004/0015205	01/22/2004	WHITEHURST	
	AB	2005/0131486	06/16/2005	BOVEJA	
	AC	2005/0049655	03/03/2005	BOVEJA	
	AD	2003/0208212	11/06/2003	CIGAINA	
	AE	2005/0192644	09/01/2005	BOVEJA	
	AF	2005/0131485	06/16/2005	KNUDSON	
	AG	2005/0038484	02/17/2005	KNUDSON	
	AH	2004/0167583	08/26/2004	KNUDSON	
	AI	2004/0172085	09/02/2004	KNUDSON	
	AJ	2004/0176812	09/09/2004	KNUDSON	

FOREIGN PATENT DOCUMENTS						
Examiner Initials*	Cite No. <sup>1</sup>	Foreign Patent Document	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T <sup>6</sup>
		Country Code <sup>3</sup> Number <sup>4</sup> Kind Code <sup>5</sup> (if known)				
Examiner Signature				Date Considered		

\*EXAMINER: Initial reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. 1 Applicant's unique citation designation number (optional). 2 See Kinds Codes of USPTO Patent Documents at [www.uspto.gov](http://www.uspto.gov) or MPEP 901.04. 3 Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). 4 For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. 5 Kind of document by the appropriate symbols as indicated on the document under WIPO Standard St.16 if possible. 6 Applicant is to place a check mark here if English language translation is attached.

The collection of information is required by 37 CFR 1.97 and 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P. O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORM TO THIS ADDRESS. Send To Commissioner For Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

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Substitute for form 1449B/PTO  <b>INFORMATION DISCLOSURE STATEMENT BY APPLICANT</b>  <i>(use as many sheets as necessary)</i>				<b>Complete if Known</b>	
				Application Number	10/612,683
				Filing Date	July 1, 2003
				First Named Inventor	
				Group Art Unit	
				Examiner Name	
Sheet	2	of	2	Attorney Docket Number	1000.023 CON

OTHER PRIOR ART -- NON PATENT LITERATURE DOCUMENTS				
Examiner Initials*	Cite No. <sup>1</sup>	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate) title of the item (book, magazine, journal, serial, symposium, catalog, etc), date, page(s), volume-issued number(s), publisher, city and/or country where published.	T <sup>2</sup>	
	AK	WOODBURY ET AL., <i>Vagal Stimulation Reduces The Severity Of Maximal Electroshock Seizures In Intact Rats: Use Of A Cuff Electrode For Stimulating And Recording</i> , Pacing and Clinical Electrophysiology, Vol. 14 (January 1991), pp. 94-107.		
	AL	ZABARA, Jacob, <i>Inhibition Of Experimental Seizures In Canines By Repetitive Vagal Stimulation</i> , Epilepsia, Vol. 33(6) (1992), pp. 1005-1012.		
	AM	HENRY, Thomas R., <i>Therapeutic Mechanisms Of Vagus Nerve Stimulation</i> , Neurology, Vol. 59 (Supp. 4) (September 2002), pp. S3-S14.		
	AN	LOCKARD ET AL., <i>Feasibility And Safety Of Vagal Stimulation In Monkey Model</i> , Epilepsia, Vol. 31 (Supp. 2) (1990), pp. S20-S26.		
	AO	HALLOWITZ ET AL., <i>Effects Of Vagal Volleys On Units Of Intralaminar And Juxtalaminar Thalamic Nuclei In Monkeys</i> , Brain Research, Vol. 130 (1977), pp. 271-286.		
	AP	BACHMAN ET AL., <i>Effects Of Vagal Volleys And Serotonin On Units Of Gulate Cortex In Monkeys</i> , Brain Research, Vol. 130 (1977), pp. 253-269.		
	AQ	TERRY ET AL., <i>The Implantable Neurocybernetic Prosthesis System</i> , Pacing and Clinical Electrophysiology, Vol. 14, No. 1 (January 1991), pp. 86-93.		
	AR	VONCK ET AL., <i>The Mechanism f Action Of Vagus Nerve Stimulation For Refractory Epilepsy</i> , Journal of Clinical Neurophysiolgy, Vol. 18(5) (2001), pp. 394-401.		
	AS	KRIWANNEK, "Therapeutic Failures After Gastric Bypass Operations For Morbid Obesity," Langenbecks Archiv. Fur Chirurgie, 38(2): 70-74, 1995.		
	AT	GRUNDY ET AL., "Sensory Afferents From The Gastrointestinal Tract," Chapter 10, Handbook of Physiology, Sec. 6, S.G., Ed., American Physiology Society, Bethesda, Md., 1989.		
	AU	"A Protective Role for Vagal Afferents: An Hypothesis," Neuroanatomy and Physiology of Abdominal Vagal Afferents, Chapter 12, CRC Press, New York, NY, 1992.		
	AV	"External Sensory Events and the Control of the Gastrointestinal Tract: An Introduction," Neuroanatomy and Physiology of Abdominal Vagal Afferents, Chapter 5, CRC Press, New York, NY, 1992.		
	AW	Neuroanatomy and Physiology of Abdominal Vagal Afferents, Ch. 10 Ritter, Ritter and Barnes, Ed., CRC Press, 1992.		
	AX	LEIBOWITZ, <i>Eating Disorders and Obesity, A Comprehensive Handbook</i> , Ch. 1, Brownell and Fairburn, Ed., The Guilford Press, 1995.		

Examiner Signature		Dated Considered	
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